

Department of Veterans Affairs

§ 21.262

with dependents in pay grade E-5 residing in the United States”.

PAYMENT OF POST-9/11 SUBSISTENCE ALLOWANCE IN ACCORDANCE WITH PUBLIC LAW 111-377

[Effective August 1, 2011]¹

Type of program	Payment
Institutional: ²	
Full-time	Entire <i>BAH</i> of institution ZIP code.
$\frac{3}{4}$ time	$\frac{3}{4}$ <i>BAH</i> of institution ZIP code.
$\frac{1}{2}$ time	$\frac{1}{2}$ <i>BAH</i> of institution ZIP code.
Nonpay or nominal pay on-job training in a Federal, State, local, or federally recognized Indian tribe agency; vocational course in a rehabilitation facility or sheltered workshop; institutional non-farm cooperative:	
Full-time only	Entire <i>BAH</i> of agency or institution ZIP code.
Nonpay or nominal pay work experience in a Federal, State, local, or federally recognized Indian tribe agency:	
Full-time	Entire <i>BAH</i> of agency ZIP code.
$\frac{3}{4}$ time	$\frac{3}{4}$ <i>BAH</i> of agency ZIP code.
$\frac{1}{2}$ time	$\frac{1}{2}$ <i>BAH</i> of agency ZIP code.
Farm cooperative, apprenticeship, or other on-job training (OJT): ³	
Full-time only	Entire <i>BAH</i> of employer ZIP code.
Combination of institutional and OJT (Full-time only):	
Institutional greater than $\frac{1}{2}$ time.	Entire <i>BAH</i> of institution ZIP code.
OJT greater than $\frac{1}{2}$ time ³	Entire <i>BAH</i> of employer ZIP code.
Non-farm cooperative (Full-time only):	
Institutional	Entire <i>BAH</i> of institution ZIP code.
On-job ³	Entire <i>BAH</i> of employer ZIP code.
Improvement of rehabilitation potential:	
Full-time	Entire <i>BAH</i> of institution ZIP code.
$\frac{3}{4}$ time	$\frac{3}{4}$ <i>BAH</i> of institution ZIP code.
$\frac{1}{2}$ time	$\frac{1}{2}$ <i>BAH</i> of institution ZIP code.
$\frac{1}{4}$ time ⁴	$\frac{1}{4}$ <i>BAH</i> of institution ZIP code.
Training consisting of solely distance learning: ⁵	
Full-time	$\frac{1}{2}$ <i>BAH</i> National Average.
$\frac{3}{4}$ time	$\frac{3}{4}$ <i>BAH</i> National Average.
$\frac{1}{2}$ time	$\frac{1}{4}$ <i>BAH</i> National Average.
Training in the home, including independent instructor:	
Full-time only	$\frac{1}{2}$ <i>BAH</i> National Average.
Training in an institution not assigned a ZIP code, including foreign institutions:	

PAYMENT OF POST-9/11 SUBSISTENCE ALLOWANCE IN ACCORDANCE WITH PUBLIC LAW 111-377—Continued

[Effective August 1, 2011]¹

Type of program	Payment
Full-time	Entire <i>BAH</i> National Average.
$\frac{3}{4}$ time	$\frac{3}{4}$ <i>BAH</i> National Average.
$\frac{1}{2}$ time	$\frac{1}{2}$ <i>BAH</i> National Average.

¹ Effective August 1, 2011, the *Post-9/11 subsistence allowance* may be paid in lieu of subsistence allowance authorized in § 21.260(b), and is not adjusted to include dependents.

² For measurement of rate of pursuit, see §§ 21.4270 and 21.4272 through 21.4275. Payments for courses being taken simultaneously at more than one institution are based on the *BAH* of the ZIP code assigned to the parent institution.

³ For on-job training, payment of the *Post-9/11 subsistence allowance* may not exceed the difference between the monthly training wage, not including overtime, and the entrance journeyman wage for the veteran's objective.

⁴ The quarter-time rate may be paid only during extended evaluation.

⁵ Payment for training consisting of both distance learning and courses taken at a local institution is based on the *BAH* of the ZIP code assigned to the local institution.

(Authority: 38 U.S.C. 3108, 3115(a)(1))

(d) *Subsistence allowance precluded.* A veteran may not receive a subsistence allowance when VA is providing the veteran only the following services:

- (1) Initial evaluation;
- (2) Placement and post-placement services under 38 U.S.C. 3105(b); or
- (3) Counseling.

(Authority: 38 U.S.C. 3108 (a)(1) and (a)(3))

(e) *Dependents.* The term *dependent* means a spouse, child or dependent parent who meets the definition of relationship specified in § 3.50, § 3.57 or § 3.59 of this chapter.

(Authority: 38 U.S.C. 3108(b))

[49 FR 40814, Oct. 18, 1984, as amended at 51 FR 9955, Mar. 24, 1986; 52 FR 42113, Nov. 3, 1987; 54 FR 4283, Jan. 30, 1989; 56 FR 7567, Feb. 25, 1991; 60 FR 4561, Jan. 24, 1995; 65 FR 51764, Aug. 25, 2000; 65 FR 60724, Oct. 12, 2000; 76 FR 34000, June 10, 2011; 76 FR 45703, Aug. 1, 2011]

§ 21.262 Procurement and reimbursement of cost for training and rehabilitation services, supplies, or facilities.

(a) *General.* Whenever services, supplies and facilities from source outside VA are required by any of these regulations, they shall be provided through

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contract, agreement of other cooperative arrangement between VA and the vendor.

(Authority: 38 U.S.C. 3115(b))

(b) *VA Acquisition Regulations.* Payments of charges for training and rehabilitation services, supplies, or facilities, authorized under Chapter 31 are subject to the provisions of applicable VA Acquisition Regulations especially 48 CFR part 831 and subpart 871.2.

(Authority: 38 U.S.C. 3115(a))

§ 21.264 Election of payment at the 38 U.S.C. chapter 30 educational assistance rate or election of payment of Post-9/11 subsistence allowance.

(a) *Election of chapter 30 educational assistance rate.* (1) *Eligibility.* A veteran who applies for, and is found entitled to training or education under Chapter 31, may elect to receive payment at the educational allowance rate and other assistance furnished under Chapter 30, for similar training in lieu of a subsistence allowance, provided the following criteria are met:

(i) The veteran has remaining eligibility for, and entitlement to educational assistance under Chapter 30;

(ii) The veteran enrolls in a program of education or training approved for benefits under Chapter 30;

(iii) The program of education is part of an IWRP (Individualized Written Rehabilitation Plan) approved by VA.

(Authority: 38 U.S.C. 3015, 3022, 3108(f))

(2) *Reelection of subsistence allowance.* Reelection of payment of benefits at the Chapter 31 subsistence allowance rate may be made only after completion of a term, quarter, semester, or other period of instruction unless:

(i) Chapter 30 eligibility or entitlement ends earlier;

(ii) Failure to approve immediate reelection would prevent the veteran from continuing in the rehabilitation program.

(Authority: 38 U.S.C. 3015, 3022, 3108(f))

(3) *Services precluded.* A veteran entitled to vocational rehabilitation training or education who elects payment at the educational assistance rate payable under Chapter 30 shall be provided the

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same training and rehabilitation services as other veterans under Chapter 31, but may not be provided:

(i) Subsistence allowances;

(ii) Loans from the revolving fund loan;

(iii) Payment of costs for:

(A) Vocational and other training services;

(B) Supplies; or

(C) Individualized tutorial assistance.

(Authority: 38 U.S.C. 3015, 3022, 3108(f))

(4) *Chapter 30 provisions applicable.* A veteran who has elected payment at the Chapter 30 educational assistance rate must meet the same terms and conditions as other veterans pursuing similar training under these programs.

(b) *Election of payment of Post-9/11 subsistence allowance—*(1) *Eligibility.* Effective August 1, 2011, a veteran who applies and is eligible for training or education under chapter 31 may elect to receive payment of the *Post-9/11 subsistence allowance* under § 21.260(c) in lieu of a subsistence allowance under § 21.260(b), provided the veteran has remaining eligibility for, and entitlement to, educational assistance under chapter 33, Post-9/11 GI Bill.

(2) *Reelection of subsistence allowance under § 21.260(b).* Reelection of payment of benefits at the chapter 31 subsistence allowance rate under § 21.260(b) may be made only after completion of a term, quarter, semester, or other period of instruction unless:

(i) Chapter 33 eligibility or entitlement ends earlier; or

(ii) Failure to approve immediate reelection would prevent the veteran from continuing in the rehabilitation program.

(3) *Services under chapter 31.* A veteran who elects payment of the *Post-9/11 subsistence allowance* remains entitled to all other services and assistance under chapter 31.

(Authority: 38 U.S.C. 3108(b))

[49 FR 40814, Oct. 18, 1984, as amended at 54 FR 4283, Jan. 30, 1989; 57 FR 57108, Dec. 3, 1992; 76 FR 45704, Aug. 1, 2011]